

PT 96-13
Tax Type: PROPERTY TAX
Issue: Charitable Ownership/Use

STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
SPRINGFIELD, ILLINOIS

H. RICHARD MCFARLAND EARLY)		
AMERICANA CHARITABLE TRUST)		
Applicant)		
)	Docket #	95-92-95
v.)		
)	Parcel Index #	GRTR-0634-E
THE DEPARTMENT OF REVENUE)		
OF THE STATE OF ILLINOIS)		

RECOMMENDATION FOR DISPOSITION

Appearances: Mr. William A. Young appeared on behalf of The H. Richard McFarland Early Americana Charitable Trust.

Synopsis:

The hearing in this matter was held at 101 West Jefferson Street, Springfield, Illinois, on May 30, 1996, to determine whether or not Vermilion County parcel number GRTR-0634-E should be exempt from real estate tax for the 1995 assessment year.

Mr. H. Richard McFarland, settlor of The H. Richard McFarland Early Americana Charitable Trust (hereinafter referred to as the "applicant"), testified on behalf of the applicant.

The issues in this matter include first, whether the applicant was the owner of this parcel during the 1995 assessment year. The second issue is whether the applicant is a charitable organization. The last issue is whether this parcel was primarily used for charitable purposes during the 1995 assessment year. Following the submission of all of the evidence and a review of the record, it is determined that the applicant owned this parcel during the entire 1995 assessment year. It is also determined that the applicant qualifies

as a charitable organization. Finally, it is determined that the applicant used the parcel here in issue and the building thereon for primarily charitable purposes during the 1995 assessment year.

Findings of Fact:

1. On June 28, 1995, the Vermilion County Board of Review transmitted an Application for Property Tax Exemption To Board of Review concerning this parcel for the 1995 assessment year, to the Illinois Department of Revenue (hereinafter referred to as the "Department"). (Dept. Ex. No. 1)

2. On December 7, 1995, the Department notified the applicant that it was denying the exemption of this parcel for the 1995 assessment year. (Dept. Ex. No. 2)

3. By a letter dated December 15, 1995, the applicant's attorney requested a formal hearing in this matter. (Dept. Ex. No. 3)

4. The hearing held in this matter on May 30, 1996, was held pursuant to that request.

5. The applicant was organized pursuant to a Trust Agreement dated August 16, 1993. (Dept. Ex. No. 1D)

6. The purpose clause of that Trust Agreement reads in part as follows:

To provide funds to purchase and construct and operate and to receive and accept property in kind for an Early Americana Museum and to purchase and acquire early Americana and early agriculture items and equipment for the purpose of charitable activities and education to the public and historical retention of such items and displays for ongoing educational and charitable purposes.

7. The applicant acquired this parcel by a warranty deed dated December 24, 1993. (Dept. Ex. No. 3B)

8. This parcel is located on Route 1, half a mile south of Route 9, near Hoopston, Illinois, and contains 1.3 acres. (Tr. p. 8)

9. The museum building was constructed on this parcel during the summer of 1993 and first opened to the public on Labor Day weekend of 1993, although said

parcel was not conveyed to the applicant until December 24 of that year. (Tr. p. 14)

10. During 1995, the museum was open from late April to early October every Saturday and Sunday afternoon from 1:00 P.M. to 4:00 P.M. (Tr. pp. 14 & 15)

11. During 1995, there was no charge to tour the museum. The applicant did have a donation basket out so that persons who toured the museum could contribute to its upkeep, if they so desired. (Tr. p. 15)

12. During 1995, the museum building was also available, by appointment, for meetings, class reunions and similar activities. The applicant has conference tables, and chairs to seat over 100 people. Groups and individuals may hold meetings or potluck dinners in the museum building. The applicant does not charge for the use of the building for these activities. (Tr. pp. 9 & 10)

13. On March 17, 1994, the Trust Agreement was amended by the addition of certain provisions, including a provision that no part of the net earning of the trust may inure to the benefit of any person. Said amendment also provides that if the trust is dissolved, all of the assets of the trust shall be distributed for exempt purposes. (Appl. Ex. No. 1)

14. The primary source of funds of the trust up to this time, have consisted of contributions from the settlor.

15. Based on the foregoing, I find that the applicant owned this parcel and the museum located thereon during the entire 1995 assessment year.

16. I also find that since the applicant did not charge persons for touring the museum or for holding meetings or dinners there, that the benefits derived were for an indefinite number of persons, that charity is dispensed to all who need and apply for it, and that no obstacles are placed in the way of those seeking the benefits.

17. I further find that the applicant has no capital, capital stock, or shareholders. I also find that the applicant does not profit from the enterprise.

18. Finally, I find that the funds of the applicant consisted primarily of charitable contributions by the settlor.

Conclusions of Law:

Article IX, Section 6, of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

35 **ILCS** 200/15-65 provides in part as follows:

All property of the following is exempt when actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit:

- (a) institutions of public charity;
- (b) beneficent and charitable organizations incorporated in any state of the United States....

It is well settled in Illinois, that when a statute purports to grant an exemption from taxation, the fundamental rule of construction is that a tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. International College of Surgeons v. Brenza, 8 Ill.2d 141 (1956). Whenever doubt arises, it is to be resolved against exemption, and in favor of taxation. People ex rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1944). Finally, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. MacMurray College v. Wright, 38 Ill.2d 272 (1967).

In the case of Methodist Old Peoples Home v. Korzen, 39 Ill.2d 149 (1968), the Illinois Supreme Court laid down six guidelines to be used in determining whether or not an organization is charitable. Those six guidelines read as follows: (1) the benefits derived are for an indefinite number of persons; (2) the organization has no capital, capital stock, or shareholders, and does not profit from the enterprise; (3) funds are derived mainly from private and public

charity, and are held in trust for the objects and purposes expressed in its charter; (4) charity is dispensed to all who need and apply for it; (5) no obstacles are placed in the way of those seeking the benefits; and (6) the primary use of the property is for charitable purposes. Based on the foregoing findings of fact, I conclude that the applicant met each of the foregoing six guidelines during the 1995 assessment year.

In the case of People ex rel. Scott v. Harding Museum, 58 Ill.App.3d 408 (1st Dist. 1978), the Court held that a museum may qualify as a charitable organization.

I therefore conclude that the applicant owned this parcel during all of the 1995 assessment year. I further conclude that the applicant is a charitable organization. Finally, I conclude that the applicant used the parcel here in issue and the building thereon for primarily charitable purposes during the entire 1995 assessment year.

I therefore recommend that Vermilion County parcel No. GRTR-0634-E and the building located thereon, be exempt from real estate tax for the 1995 assessment year.

Respectfully Submitted,

George H. Nafziger
Administrative Law Judge
June , 1996